

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
3 **NORTHERN DIVISION**

4 TRACEY MARSHALL,)

5 Plaintiff)

6 v.)

7 PROGRESSIVE LEASING,)

8 Defendant)
9
10

Case No.: 3:19-cv-306-CWR-FKB

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

11
12 **COMPLAINT**

13 TRACEY MARSHALL (“Plaintiff”), by and through her attorneys, The
14 Kittell Law Firm, alleges the following against PROGRESSIVE LEASING
15 (“Defendant”):
16

17 **INTRODUCTION**

18 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection
19 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).
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21 **JURISDICTION AND VENUE**

22 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See
23 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).
24

25 3. Defendant conducts business in the State of Mississippi, and as such,
personal jurisdiction is established.

1 14. When contacting Plaintiff on her cellular phone, Defendant used an
2 automated telephone dialing system and automatic and/or prerecorded voice.

3 15. Plaintiff knew Defendant was using an automated telephone dialing
4 system because the calls would often begin with a noticeable pause or silence with
5 no caller on the line before calls were transferred to one of Defendant's
6 representatives or terminated.
7

8 16. Shortly after calls started, Plaintiff first told Defendant to stop calling
9 her, thereby revoking any consent Defendant may or may not assert it had to call.
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11 17. Defendant heard and acknowledged Plaintiff's revocation of any
12 applicable consent, but continued to call repeatedly.
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14 18. When Defendant continued to call, Plaintiff was forced to make
15 additional requests that they stop calling without success.

16 19. Nonetheless, the Defendant continued to call Plaintiff.
17

18 20. Plaintiff found Defendant's repeated automated calls to be invasive,
19 harassing, frustrating, aggravating, annoying, stressful, and upsetting.

20 21. On information and belief, Defendant conducts its business in a
21 manner that violates the Telephone Consumer Protection Act.
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23
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COUNT I
DEFENDANT VIOLATED THE
TELEPHONE CONSUMER PROTECTION ACT

22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

24. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

25. Defendant's calls to Plaintiff were not made for emergency purposes.

26. After Defendant was told to stop calling, Defendant knew or should have known it did not have consent to call and that any consent it may have thought it had to call was revoked, yet Defendant intentionally and knowingly continued to place autodialed calls to Plaintiff's cellular telephone.

27. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

28. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, TRACEY MARSHALL, respectfully prays for a judgment as follows:

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- DEMAND FOR JURY TRIAL**
- PLEASE TAKE NOTICE that Plaintiff, TRACEY MARSHALL, demands
a jury trial in this case.

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RESPECTFULLY SUBMITTED

Date: 5/01/2019

By: /s/ Christopher E. Kittell

Christopher E. Kittell, Esq.

The Kittell Law Firm

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